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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,151	01/20/2004	Frantz Germain	0267-001-1996	6963
31108	7590	10/20/2005	EXAMINER	
PAUL J. SUTTON, ESQ., BARRY G. MAGIDOFF, ESQ. GREENBERG TRAURIG, LLP 200 PARK AVENUE NEW YORK, NY 10166			DANG, ROBERT TRONG	
			ART UNIT	PAPER NUMBER
			2838	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,151

Applicant(s)

GERMAIN ET AL.

Examiner

Robert T. Dang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/20/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01/20/2004 8/8/2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by DiSalvo (6246558).

As to claims 1 and 6, DiSalvo clearly exhibits in figures 1,3, and 18 a circuit interrupting device comprising: a housing (12) ; a phase conductive path (34) disposed at least partially within said housing between a line side and a load side, said phase conductive path terminating at a first connection capable of

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being electrically connected to a source of electricity (see col. 6, lines 20-23), a second connection (38) capable of conducting electricity to at least one load and a third connection (40) capable of conducting electricity to at least one user accessible load; a circuit interrupting portion disposed within said housing and configured to cause electrical discontinuity in said phase conductive path between said line side and said load side upon the occurrence of a predetermined condition ((see col. 2, lines lines 66-67) & (col. 3, lines 1-6)); and switch means (26) disposed at least partially within said housing to initiate a test to determine if the predetermined condition is present, and to provide electrical continuity in said phase conductive path between said line side and said load side if the test determined that a second predetermined condition is not present (see col. 5, lines 47-55); and a trip portion configured to cause electrical discontinuity in said phase and neutral conductive paths between said line side and said load side (see col. 3, lines 49-61)

As to claim 2, DiSalvo discloses in figure 2, a circuit interrupting device of claim 1 wherein the switch means is a single throw, double mode push button.

As to claim 3, DiSalvo discloses in figure 1, wherein the switch means is a button which, when depressed initiates the test and when released provides electrical continuity in said phase conductive path between said line side and said load side if the test determined that a second predetermined condition is not present (see col. 6, lines 8-19)

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As to claim 4, DiSalvo discloses in figure 14, wherein the switch means comprises a button (202) biased by spring (204) means which urges the button to return to its initial position.

As to claim 5, DiSalvo discloses a circuit interrupting device of claim 1 wherein the second predetermined condition comprises defective operation of the circuit interrupting portion, or an open neutral condition, or a reverse wiring condition (see col. 5, lines 46-55).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert T. Dang whose telephone number is 571-272-8326. The examiner can normally be reached on M-F, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Sherry can be reached on 571-272-2084. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Adolf Deneke Berhane
Primary Examiner